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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,135

Applicant(s)

MCCAMBRIDGE ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-42 is/are pending in the application.
- 4a) Of the above claim(s) 27-29 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25, 26, 30 and 37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/27/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Claims 27-29 and 31-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/18/04.

2. Applicant's election with traverse of Group III (claims 25-26, 30 and 37-42) in the reply filed on 11/18/04 is acknowledged. The traversal is on the ground(s) that there is no undue burden on the examiner because the groups share common features and the searches would likely overlap. Applicant supports these contentions by stating that all groups include a hair-clipping device with a rotating bladeset; that all groups are classified in the same class; and the dependent claims merely recite additional features of the present invention. This is not found persuasive because burden can be shown by different classification such as indicated in this case different subclasses of the same class. However, it should be not that there is no requirement that each group be in different classes nor that each group be in different subclasses in the same class, that is, even if the different groups were classified in the same class and subclass it would not suggest that there is no burden because the examiner would not be necessarily looking for the same subject matter in those classes and subclasses during the search. Therefore, it is immaterial whether the searches overlap or not.

Whether or not there are common features is irrelevant in regard to restriction requirements, as applicant pointed out the dependent claims are directed to various

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additional features, it is because of these various additional features that the restriction requirement was issued.

It is again noted that upon allowance of a generic claim, rejoinder of the dependent claims will be considered.

The requirement is still deemed proper and is therefore made FINAL.

Priority

3. Acknowledgement is made of applicant's claim to priority of parent application 09/736,800, filed 12/14/00, now U.S. Patent 6,684,511.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 25-26 and 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 7, 16, and 18 of U.S. Patent No. 6,684,511.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in the claim terminology used but encompass

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the same subject matter, that is, the claims 1-2, 7, 16, 18 of U.S. Patent 6,684,511 anticipate the claim language of claims 25-26 and 30 of the instant application. Both of which are directed to a hair trimmer with a housing, rotatable bladeset, and single cutting locating.

For example, the only difference between claim 25 of the instant application and that of the claim 1 of '511 is that the bladeset of claim 25 requires "... are located at a second location on said housing operationally remote from said cutting location..." while claim 1 requires "...are located at a second location on said housing opposite said cutting location...". In this case, the language "opposite said cutting location" is encompasses "operationally remote from cutting location" because opposite the cutting location is definitely remote from the cutting location. As to claim 26 of the instant application, claim 2 of '511 is identical and therefore anticipates claim 26. As to claim 30 of the instant application, claim 7 of '511 is identical and therefore anticipates claim 30.

6. Claims 37-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2,7, 16, and 18 of U.S. Patent No. 6,684,511 in view of McCambridge, U.S. patent 5,075,971 and Horti et al., U.S. patent 4,899,442.

Claims 1-2, 7, 16, and 18 discloses the invention substantially as claimed as stated above but lack the vacuum intake, passageway and removeable clipping trap portion that retains clippings upon removal of the trap portion, wherein the trap portion is removed from in a direction generally perpendicular to the housing. McCambridge discloses that it is old and well known in the hair clipping art to use vacuum intake,

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passageway and trapping portion for the purpose of collecting hair clippings such that the clippings are easily disposed of. Horii et al. discloses that it is old and well known in the hand-held clipping art to use vacuum intakes, passageways and removeable clipping trap portions that are remove perpendicular to the housing for the purpose of providing a clean and easy disposal of waste products. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a vacuum intake, passageway, are perpendicular removable clipping trap portion with the claims of 1-2,7,16, and 18 of U.S. Patent 6,684,511 as taught by McCambridge and Horii et al. in order to provide for clean and easy disposal of waste products.

7. Claims 25, 37-39, and 41-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10 and 14 of U.S. Patent No. 6,739,053.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in the claim terminology used but encompass the same subject matter, that is, the claims 10 and 14 of U.S. Patent 6,739,053 anticipate the claim language of claims 25, 37-39 and 41-42 of the instant application. Both of which are directed to a hair trimmer with a housing, rotatable bladeset, single cutting locating, and vacuum collection of clippings.

For example, claim 10 of '053 discloses all of claim 25 plus the additional structure regarding the vacuum passage, clipping collection, locking mechanism and comb assembly.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 25-26 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Donnelly, U.S. patent 560,260.

Donnelly discloses the same invention as claimed including, e.g., a housing (9); a blade set (1 and 4) including at least one stationary blade (1) and at least one moving blade (4) both of which have two cooperating cutting edges as shown (2/3 and 5/6, respectively, see Figures 2 and 4), wherein the moving blade is reciprocated relative to the stationary blade. The housing defines a single cutting location the location shown on the left in Figure 1 (see column 2, lines 55-70). The bladeset of Donnelly is fully capable of being rotated on the housing by loosening the nut (26) just enough to allow “the head” to rotate, thereby allowing rotating without removing the entire structure (see column 3, lines 1-30). The rotation of the head allows for one set of blades to be in the cutting position while the other set of the blades is operationally remote from the cutting location.

It should be noted that (9) represents a housing because the term “housing” is defined as “something that covers, protects, or supports” or “a frame, bracket or box for holding or protecting a mechanical part”. In this case, the portion (9) of Donnelly covers a portion of the blade assembly, protects the inner connects of the device such as the

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handles as shown in Figure 3, and supports the blade assembly and handles.

Moreover, the housing (9) is a framing portion for holding and protecting mechanical parts (inner handle connections) of Donnelly.

It should be noted that there is only one cutting location because cutting by reciprocating movement of the blade only occurs on the left as shown in Figure 1. The right side of the blade is shielded from the cutting area by the handles such that cutting does not occur. Moreover, it should be noted that the structure of device requires the blade to be in the orientation as shown in order for the blades to be reciprocated.

As to claim 26, Donnelly is fully capable of allowing a user to use a single gripping position no matter which side of the blade is in use.

As to claim 30, Donnelly discloses the blades in the non-cutting position sufficiently isolated (covered by the handles) from the cutting located to prevent unwanted cutting by the non-selected blades.

10. Claims 25-26 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee, U.S. patent 382,288.

Lee discloses the same invention as claimed including, e.g., a housing (C); a blade set (A,B,D) including at least one stationary blade (A) and at least one moving blade (B) both of which have two cooperating cutting edges as shown, wherein the moving blade is reciprocated relative to the stationary blade. The housing defines a single cutting location the location shown on the left in Figure 1. The bladeset of Lee is fully capable of being rotated on the housing by loosening the nut (E) on bolt (D) just enough to allow the posts (i) of the housing to exit the slots (b) of blade (B), thereby

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allowing rotating without removing the entire structure. The rotation of the head allows for one set of blades to be in the cutting position while the other set of the blades is operationally remote from the cutting location.

It should be noted that (C) represents a housing because the term "housing" is defined as "something that covers, protects, or supports" or "a frame, bracket or box for holding or protecting a mechanical part". In this case, the portion (C) of Lee covers a portion of the blade assembly, protects the inner connects of the device such as the rollers K and inner portions of the handles as shown in Figure 3, and supports the blade assembly, rollers and handles. Moreover, the housing (C) is a framing portion for holding and protecting mechanical parts (K and inner handle connections) of Lee.

It should be noted that there is only one cutting location because cutting by reciprocating movement of the blade only occurs on the left as shown in Figure 1. The right side of the blade is covered by shield (L) such that cutting does not occur. Moreover, it should be noted that the structure of device requires the blade to be in the orientation as shown in order for the blades to be reciprocated because of the post (i), that is, the blades must be parallel to the housing (C) whether in the first blade position shown in Figure 1 or in the reversed blade position. The reversed blade position being when the second side of the blades are in the position shown in Figure 1.

Although, the Lee reference is silent as the specifics as to how the blades are reversed, rotated or completely removed and replaced, the above interpretation seems reasonable and proper considering the user would not want to lose the roller bearings (K) during the transitions.

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As to claim 26, Lee has gripping position that is the same no matter which side of the blade is in use.

As to claim 30, Lee discloses the blades in the non-cutting position sufficiently isolated (covered in this case) from the cutting located to prevent unwanted cutting by the non-selected blades.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art references cited but not relied upon show similar device of varying scope. For example, La Fontaine (1343175 and 1376628), Melton (5579581), Wahl et al. (5970616), and Andis (3279056) disclose hair clippers with rotating blades but include multiple cutting locations instead of a single location; Cromonic (2484610) discloses a hair clipper with a rotating comb with two edges but only a single cutting edge that does not rotate; Andis (1997096) discloses a rotating cutting head but with only one cutting edge and comb; Johannesson (5,012,576), Sheley et al. (2,748,472), and Jording et al. (3384919) all disclose trimmers with vacuum devices; and Jones et al. (1375966) discloses a multiple orientation cutter.

References to Ullmann (6505404), Beutel et al. (6502312), Beutel et al. (6421922) with corresponding international applications WO 00/37225, WO 00/37226, WO 01/14107, DE 19859017, and DE 19939509, all disclose similar hair trimming devices with rotating with multiple cutting edges but no single cutting point as shown in


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Figures 6 and 7. Furthermore, the U.S. Patents are insufficient prior art references due to their dates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
February 16, 2005